

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE (WILMINGTON)**

ROBERT H. AYLOR, JR., On Behalf of Himself x  
and All Others Similarly Situated, :

Plaintiff, :

vs. :

XYBERNAUT CORPORATION, EDWARD G. :  
NEWMAN, STEVEN A. NEWMAN, M.D., and :  
THOMAS D. DAVIS, :

Defendants. :

Case No. 1:05-cv-00222 (SLR)

[Caption continues on next page]

**MOTION OF THE JAMES GROUP FOR APPOINTMENT AS LEAD PLAINTIFF AND  
FOR APPROVAL OF ITS SELECTION OF LEAD COUNSEL**

**MILBERG WEISS BERSHAD  
& SCHULMAN LLP**

Seth D. Rigrodsky (#3147)

Ralph N. Sianni (#4151)

919 N. Market Street, Suite 411

Wilmington, Delaware 19801

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--and--

**MILBERG WEISS BERSHAD  
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**HOLMAN LAW OFFICE**

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*Plaintiff's Counsel*

Dated: June 14, 2005

**STULL, STULL & BRODY**

Jules Brody

Aaron Brody

Tzivvia Brody

6 East 45<sup>th</sup> Street

New York, New York 10017

Telephone: (212) 687-7230

*Proposed Lead Counsel*

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MOSHE TAL, On Behalf of Himself and All  
Others Similarly Situated,

Plaintiff,

vs.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D., and  
THOMAS D. DAVIS,

Defendants.

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MICHAEL FEHRENBACHER, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

vs.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, M.D. STEVEN A. NEWMAN and  
THOMAS D. DAVIS,

Defendants.

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JEFFREY M. JASKOL and STACEY J. JASKOL,  
Individually and On Behalf of All Others Similarly  
Situated,

Plaintiff,

vs.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D., and  
THOMAS D. DAVIS,

Defendants.

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Case No. 1:05-cv-00242 (SLR)

Case No. 1:05-cv-00256 (SLR)

Case No. 1:05-cv-00268 (SLR)

JOSEPH DANIEL WAUHOP, On Behalf of  
Himself and All Others Similarly Situated,

Plaintiff,

vs.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D.,  
THOMAS D. DAVIS, JOHN F. MOYNAHAN  
and GRANT THORNTON LLP,

Defendants.

Case No. 1:05-cv-00310 (SLR)

[CHRISTINA W. DONNELLY, JOHN  
DONNELLY, JAMES G. WILLIAMSON and  
RICHARD W. DEARBORN, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, THOMAS  
D. DAVIS and BRUCE C. HAYDEN,

Defendants.

Case No. 1:05-cv-00334 (JJF)

CHARLES W. SMITH, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

Case No. 1:05-cv-00354 (SLR)

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, THOMAS  
D. DAVIS, BRUCE C. HAYDEN and GRANT  
THORNTON LLP,

Defendants.

x

Class members Kenneth James, La Rocca Pietro, Michael A. Farmakis, David S. Pennington, and Christina Donnelly (collectively, the "James Group" or "Movant"), upon the accompanying Declaration of Ralph Sianni, dated June 14, 2005, the accompanying memorandum of law in support, and upon all other papers and prior proceedings had herein, hereby move this Court for an Order:

(A) consolidating the above-captioned actions;

(B) appointing the James Group as Lead Plaintiff;

(C) approving the James Group's choice of Milberg Weiss Bershad & Schulman LLP and Stull, Stull & Brody as Lead Counsel; and

(D) Granting such other and further relief as may be just, proper and equitable.

DATED: June 14, 2005

Respectfully submitted,

**MILBERG WEISS BERSHAD  
& SCHULMAN LLP**

By /s/ Ralph N. Sianni

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